

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

JAMES WAYNE CALDWELL
2520 E. Hawkeye Avenue
Turlock, CA 95380

Registered Nurse License No. 283287

Respondent

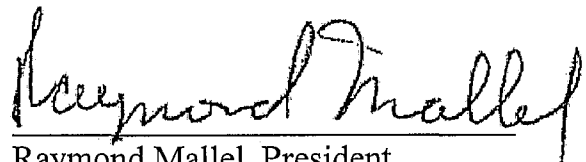
Case No. 2013-38

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **November 27, 2012.**

IT IS SO ORDERED **November 27, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

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Attorney General of California
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Supervising Deputy Attorney General
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-38

13 **JAMES WAYNE CALDWELL**
2520 E. Hawkeye Avenue
Turlock, California 95380

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 Registered Nurse License No. 283287

15 Respondent.

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17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) is the Executive Officer of the Board of
21 Registered Nursing. She brought this action solely in her official capacity and is represented in
22 this matter by Kamala D. Harris, Attorney General of the State of California, by Sterling A.
23 Smith, Deputy Attorney General.

24 2. James Wayne Caldwell (Respondent) is representing himself in this proceeding and
25 has chosen not to exercise his right to be represented by counsel.

26 3. On or about August 31, 1977, the Board of Registered Nursing issued Registered
27 Nurse License No. 283287 to James Wayne Caldwell (Respondent). The Registered Nurse
28 License expired on February 28, 2011, and has not been renewed.

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10. Respondent agrees that cause exists for discipline and hereby surrenders his Registered Nurse License No. 283287 for the Board's formal acceptance. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Registered Nurse License without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

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ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 283287, issued to Respondent James Wayne Caldwell, is surrendered and accepted by the Board of Registered Nursing.

1. The surrender of Respondent's Registered Nurse License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Registered Nursing.

2. Respondent shall lose all rights and privileges as a registered nurse in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his wall certificate and, if one was issued, his pocket license, on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 2013-38 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If and when Respondent's license is reinstated, he shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of \$9,709.40. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. Nothing in this provision shall be construed to prohibit the Board from reducing the amount of cost recovery upon reinstatement of the license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 2013-38 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

7. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Registered Nurse License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED:

8/20/12

~~JAMES WAYNE CALDWELL~~
Respondent

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated:

8/28/2012

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE LACHMAN
Supervising Deputy Attorney General

STERLING A. SMYTH
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 2013-38

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2 ARTHUR D. TAGGART
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13 **JAMES WAYNE CALDWELL**
14 **2520 E. Hawkeye Avenue**
15 **Turlock, CA 95380**
16 **Registered Nurse License No. 283287**

ACCUSATION

Respondent.

17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Interim
20 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
21 Affairs.

22 2. On or about August 31, 1977, the Board issued Registered Nurse License Number
23 283287 to James Wayne Caldwell ("Respondent"). The license was in full force and effect at all
24 times relevant to the charges brought herein. The license expired on February 28, 2011, and has
25 not been renewed.

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STATUTORY AND REGULATORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions."

5. California Code of Regulations, title 16, section 1442, states:

As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from the standard of care which, under similar circumstances, would have ordinarily been exercised by a competent registered nurse. Such an extreme departure means the repeated failure to provide nursing care as required or failure to provide care or to exercise ordinary precaution in a single situation which the nurse knew, or should have known, could have jeopardized the client's health or life.

COST RECOVERY

6. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND INFORMATION

7. On or about January 6, 2007, while on duty as a registered nurse in the Emergency Department at Central California Women's Facility (California Department of Corrections and Rehabilitations), located in Chowchilla, California, Respondent received care of Inmate M who arrived in the Emergency Room unconscious due to a seizure. Respondent startled Inmate M awake and began yelling at her in a loud voice, telling her to get up and walk and that there was nothing wrong with her. Respondent then grabbed Inmate M's upper right arm and dragged her.

1 out of the examination room and into the hallway where he placed her in a chair. Inmate M was
2 disoriented, confused, weak, and unable to walk without assistance. As a result of the incident,
3 Inmate M's right upper arm and leg were bruised.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Gross Negligence)**

6 8. Respondent is subject to discipline under Code section 2761(a)(1), on the grounds
7 of unprofessional conduct, in that on or about January 6, 2007, while on duty as a registered nurse
8 in the Emergency Department at Central California Women's Facility (California Department of
9 Corrections and Rehabilitations), located in Chowchilla, California, he was grossly negligent by
10 grabbing Inmate M's right upper arm and dragging her out of the examination room and into the
11 hallway, bruising her right upper arm and leg, as more particularly set forth above in paragraph 7.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 9. Respondent is subject to discipline under Code section 2761(a), on the grounds of
15 unprofessional conduct, in that on or about January 6, 2007, while on duty as a registered nurse in
16 the Emergency Department at Central California Women's Facility (California Department of
17 Corrections and Rehabilitations), located in Chowchilla, California, he demonstrated
18 unprofessional conduct, as more particularly set forth above in paragraph 8.

19 **PRAYER**

20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 283287, issued to
23 James Wayne Caldwell;

24 2. Ordering James Wayne Caldwell to pay the Board of Registered Nursing the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: July 13, 2012

Louise L. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
State of California
Complainant

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